



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 15, 1998

Ms. Cathy Cunningham
Senior Assistant City Attorney
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR98-3138

Dear Ms. Cunningham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120589.

The City of Irving (the "city") received a request for investigative reports on a fire at an apartment complex. You say you have already released the requested information, but with the names of witnesses and suspects and information that would identify them, redacted. You ask to withhold the information that would identify such witnesses and suspects.

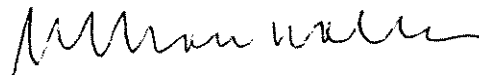
The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests).

The material you submitted indicates that the request for information here was received by the city on August 19, 1998. You did not seek a decision from this office until September 30, 1998. Consequently, you have not met your statutory burden. Gov't Code § 552.301. The requested information is therefore presumed public.

The exception you appear to raise here, the informer's privilege, does not constitute a compelling demonstration that overcomes the presumption of openness as to the materials you seek to withhold. The informer's privilege exists to protect the governmental body's interests, not those of third parties. It may be waived by the governmental body. Open Records Decision No. 549 (1990). Thus, except for confidential information contained therein, you must release the requested information in its entirety. We have marked a driver's license number which must be withheld under section 552.130 of the Government Code. You must release the rest of the information at issue.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous *determination regarding any other records*. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/rho

Ref: ID# 120589

Enclosures: Submitted documents

cc: Ms. Sally Bridges
963 French Street
Irving, Texas 75061
(w/o enclosures)